

1955 (the day after the date of the enactment of the Act of June 15, 1955). The preceding sentence does not apply to that part of any increase in tax which is due to the improper application of sections 452 and 462. The provisions of this paragraph shall not apply to interest imposed under section 3779 of the Internal Revenue Code of 1939. (See paragraph (d) of this section.)

(d) *Amounts deferred by corporations expecting carrybacks.* Interest shall be imposed at the rate of 6 percent on so much of the amount of tax deferred under section 3779 of the Internal Revenue Code of 1939 as is not satisfied within the meaning of section 3779(i)(1), notwithstanding the fact that a greater amount would have been satisfied, had sections 452 and 462 not been repealed. Interest will be imposed at such rate until the amount not so satisfied is paid.

§ 1.9000-7 Provisions for estimated tax.

(a) *Additions to tax under section 294(d) of the Internal Revenue Code of 1939.* Any addition to the tax under section 294(d) (relating to estimated tax) of the Internal Revenue Code of 1939 shall be computed as if the tax for the year for which the estimate was made were computed with sections 452 and 462 still applicable to such taxable year. For the purpose of the preceding sentence, it is not necessary for the taxpayer actually to have made an election under section 452 or 462; it is only necessary for the taxpayer to have taken such sections into account in estimating its tax liability for the year. Thus, if in determining the amount of estimated tax, the taxpayer computed his estimated tax liability by applying those sections, that portion of any additions to tax under section 294(d) resulting from the repeal of sections 452 and 462 shall be disregarded.

(b) *Additions to tax under section 6654.* In the case of an underpayment of estimated tax, any additions to the tax under section 6654, with respect to installments due before December 15, 1955, shall be computed without regard to any increase in tax resulting from the repeal of sections 452 and 462. Any additions to the tax with respect to installments due on or after December 15, 1955, shall be imposed in accordance

with the applicable provisions of the Code, and as though sections 452 and 462 had not been enacted. Thus, a taxpayer whose declaration of estimated tax was based upon an estimate of his taxable income for the year of the estimate which was determined by taking sections 452 and 462 into account, must file an amended declaration on or before the due date of the next installment of estimated tax due on or after December 15, 1955. Such amended declaration shall reflect an estimate of the tax without the application of such sections. If the taxpayer bases his estimate on the tax for the preceding taxable year under section 6654(d)(1)(A), an amended declaration must be filed on or before the due date of the next installment due on or after December 15, 1955, if the tax for the preceding taxable year is increased as the result of the repeal of sections 452 and 462. Similarly, if the taxpayer bases his estimate on the tax computed under section 6654(d)(1)(B), he must file an amended declaration on or before the due date of the next installment due on or after December 15, 1955, taking into account the repeal of sections 452 and 462 with respect to the preceding taxable year. Any increase in estimated tax shown on an amended declaration filed in accordance with this paragraph must be paid in accordance with section 6153(c).

(c) *Estimated tax of corporations.* Corporations required to file a declaration of estimated tax under section 6016 for taxable years ending on and after December 31, 1955, shall estimate their tax liability for such year as if sections 452 and 462 had not been enacted. Thus, if the corporation bases its estimated tax liability under section 6655(d) (1) or (2) on its operations for the preceding taxable year, the effect of the repeal of sections 452 and 462 with respect to such year must be taken into account.

§ 1.9000-8 Extension of time for making certain payments.

(a) *Time for payment specified in Code.* (1) If the treatment of any payment (including its allowance as a deduction or otherwise) is dependent upon the making of a payment within a period of time specified in the Code the period within which the payment is to be

made is extended where the amount to be paid is increased by reason of the repeal of sections 452 and 462: *Provided, That:*

(i) The taxpayer, because of a pre-existing obligation, is required to make a payment or an additional payment to another person by reason of such repeal;

(ii) The deductibility of the payment or additional payment is contingent upon its being made within a period prescribed by the Code, which period expires after the close of the taxable year; and

(iii) The payment or additional payment is made on or before December 15, 1955.

If the foregoing conditions are met, the payment or additional payment will be treated as having been made within the time specified in the Code, and, subject to any other conditions in the Code, it shall be deductible for the year to which it relates. The provision of this paragraph may be illustrated by the following examples:

Example 1. Section 267 (relating to losses, expenses and interest between related taxpayers) applies to amounts accrued by taxpayer A for salary payable to B. For the calendar year 1954, A is obligated to pay B a salary equal to 5 percent of A's taxable income for the taxable year. The amount accrued as salary payable to B for 1954 is \$5,000 with the taxable income reflecting the application of section 462. As a result of the repeal of section 462 the salary payable to B for 1954 is increased to \$6,000. The additional \$1,000 is paid to B on December 15, 1955. In recomputing A's tax liability for 1954 the additional deduction of \$1,000 for salary payable to B will be treated as having been made within two and one-half months after the close of the taxable year and will be deductible in that year.

Example 2. On March 1, 1955, Corporation X, a calendar year taxpayer using the accrual method of accounting, makes a payment described in section 404(a)(6) (relating to contributions to an employees' trust) of \$10,000 which is accrued for 1954 and is determined on the basis of the amount of taxable income for that year. The taxpayer filed its return on March 15, 1955. By reason of the repeal of section 462, X's taxable income is increased so that it is required to make an additional contribution of \$2,000 to the employees' trust. The additional payment is made on December 15, 1955. For purposes of recomputing X's tax liability for 1954, this additional payment is deemed to have been made on the last day of 1954.

(2) The time for inclusion in the taxable income of the payee of any additional payment of the type described in subparagraph (1) of this paragraph, shall be determined without regard to section 4(c)(3) of the Act of June 15, 1955, and §§1.9000-2 to 1.9000-8, inclusive.

(b) *Dividends paid under section 561.* under section 4(c)(4) of the Act of June 15, 1955, the period during which distributions may be recognized as dividends paid under section 561 for a taxable year to which section 452 or 462 apply may be extended under the conditions set forth below.

(1) *Accumulated earnings tax or personal holding company tax.* In the case of the accumulated earnings tax or the personal holding company tax, if:

(i) The income of a corporation is increased for a taxable year by reason of the repeal of sections 452 and 462 so that it would become liable for the tax (or an increase in the tax) imposed on accumulated earnings or personal holding companies unless additional dividends are distributed;

(ii) The corporation distributes dividends to its stockholders after the 15th day of the 3d month following the close of its taxable year and on or before December 15, 1955, which dividends are attributable to an increase in its accumulated taxable income or undistributed personal holding company income, as the case may be, resulting from the repeal of sections 452 and 462, and

(iii) The corporation elects in its statement, submitted under §1.9000-3, to have the provisions of section 4(c)(4) of the Act of June 15, 1955, apply:

Then such dividends shall be treated as having been paid on the last day of the taxable year to which the statement applies.

(2) *Regulated investment companies.* In the case of a regulated investment company taxable under section 852, if:

(i) The taxable income of the regulated investment company is increased by reason of the repeal of sections 452 and 462 (without regard to any deduction for dividends paid as provided for in this subparagraph);

(ii) The company distributes dividends to its stockholders after the 15th day of the 3d month following the close

of its taxable year and on or before December 15, 1955, which dividends are attributable to an increase in its investment company income resulting from the repeal of sections 452 and 462; and

(iii) The company elects in its statement, submitted under § 1.9000-3, to have the provisions of section 4(c)(4) of the Act of June 15, 1955, apply:

then such dividends are to be treated as having been paid on the last day of the taxable year to which the statement applies. The dividends paid are to be determined under this subparagraph without regard to the provisions of section 855.

(3) *Related provisions.* An election made under subparagraph (1) or (2) of this paragraph is irrevocable. The time for inclusion in the taxable income of the distributees of any distributions of the type described in subparagraph (1) or (2) of this paragraph shall be determined without regard to section 4(c)(4) of the Act of June 15, 1955, and §§ 1.9000-2 to 1.9000-8, inclusive.

RETIREMENT-STRAIGHT LINE ADJUSTMENT ACT OF 1958

SOURCE: Sections 1.9001 to 1.9001-4 contained in T.D. 6500, 25 FR 12158, Nov. 26, 1960, unless otherwise noted.

§ 1.9001 Statutory provisions; Retirement-Straight Line Adjustment Act of 1958.

Section 94 of the Technical Amendments Act of 1958 (72 Stat. 1669) provides as follows:

SEC. 94. *Change from retirement to straight line method of computing depreciation in certain cases—(a) Short title.* This section may be cited as the “Retirement-Straight Line Adjustment Act of 1958”.

(b) *Making of election.* Any taxpayer who held retirement-straight line property on his 1956 adjustment date may elect to have this section apply. Such an election shall be made at such time and in such manner as the Secretary shall prescribe. Any election under this section shall be irrevocable and shall apply to all retirement-straight line property as hereinafter provided in this section (including such property for periods when held by predecessors of the taxpayer).

(c) *Retirement-straight line property defined.* For purposes of this section, the term “retirement-straight line property” means any property of a kind or class with respect to which the taxpayer or a predecessor (under

the terms and conditions prescribed for him by the Commissioner) for any taxable year beginning after December 31, 1940, and before January 1, 1956, changed from the retirement to the straight line method of computing the allowance of deductions for depreciation.

(d) *Basis adjustments as of 1956 adjustment date.* If the taxpayer has made an election under this section, then in determining the adjusted basis on his 1956 adjustment date of all retirement-straight line property held by the taxpayer, in lieu of the adjustments for depreciation provided in section 1016(a) (2) and (3) of the Internal Revenue Code of 1954, the following adjustments shall be made (effective as of his 1956 adjustment date) in respect of all periods before the 1956 adjustment date:

(1) *Depreciation sustained before March 1, 1913.* For depreciation sustained before March 1, 1913, on retirement-straight line property held by the taxpayer or a predecessor on such date for which cost was or is claimed as basis and which either:

(A) *Retired before changeover.* Was retired by the taxpayer or a predecessor before the changeover date, but only if (i) a deduction was allowed in computing net income by reason of such retirement, and (ii) such deduction was computed on the basis of cost without adjustment for depreciation sustained before March 1, 1913. In the case of any such property retired during any taxable year beginning after December 31, 1929, the adjustment under this subparagraph shall not exceed that portion of the amount attributable to depreciation sustained before March 1, 1913, which resulted (by reason of the deduction so allowed) in a reduction in taxes under the Internal Revenue Code of 1954 or prior income, war-profits, or excess-profits tax laws.

(B) *Held on changeover date.* Was held by the taxpayer or a predecessor on the changeover date. This subparagraph shall not apply to property to which paragraph (2) applies.

The adjustment determined under this paragraph shall be allocated (in the manner prescribed by the Secretary) among all retirement-straight line property held by the taxpayer on his 1956 adjustment date.

(2) *Property disposed of after changeover and before 1956 adjustment date.* For that portion of the reserve prescribed by the Commissioner in connection with the changeover which was applicable to property:

(A) Sold, or

(B) With respect to which a deduction was allowed for Federal income tax purposes by reason of casualty or “abnormal” retirement in the nature of special obsolescence, if such sale occurred in, or such deduction was allowed for, a period on or after the changeover date and before the taxpayer's 1956 adjustment date.